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AUTH.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE 01 JUL 20 PM 3 22

IN RE:	)	OFFICE OF THE EXECUTIVE SECRETARY
SHOW CAUSE PROCEEDING AGAINST	)	DOCKET NO.
GASCO DISTRIBUTION SYSTEMS, INC.	)	97-00293 and 97-00160
	)	

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**STAFF RESPONSE TO MEMORANDUM IN SUPPORT OF  
PETITION FOR REVIEW OF INITIAL ORDER**

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On July 18, 2001, Gasco Distribution Systems, Inc. ("Gasco") filed with the Tennessee Regulatory Authority ("Authority") a *Memorandum in Support of Petition for Review of Initial Order* ("Memorandum"). Staff of the TRA's Energy and Water Division ("Staff") files the following response.

Although pursuant to Tenn. Code Ann. § 4-5-315(c), Gasco's *Petition for Review of Initial Order* is deficient in its current form because it states no basis for appeal,<sup>1</sup> the timely filing of the Memorandum apparently has cured this defect. The Memorandum states as a basis for appeal that the sole issue "is whether Gasco should be given additional time to pay the \$6,550 fine imposed by the Hearing Officer."<sup>2</sup> Staff would agree that the only issue on appeal is relative to timing: when the payment(s) is/are to be made. There are no outstanding issues in this docket relative to how much, to whom or for what reason.

However, at this time it is necessary to point out that the Memorandum has a serious mistake in Footnote 1, which states that "Gasco currently has a credit balance at the TRA of

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<sup>1</sup> "The petition for appeal shall state its basis." Tenn. Code Ann. § 4-5-315(c).

<sup>2</sup> Gasco's Memorandum, p.1.

\$92,425.00 [sic] as the result of an overpayment in January 2001.” Counsel for Gasco has informed Staff that the “9” is a typographical error. Gasco did make a \$2,425 overpayment in January, 2001, but Staff assumes that they have used \$625 of that credit to satisfy the “final” payment of the original fine that was due July 1, 2001. That would leave Gasco with a current credit balance of \$1,800. The proper state officials have verified this credit balance and counsel for Gasco has agreed that \$1,800 is the correct number that should have been used in Footnote 1.

As for the issue of timing, in the *Staff Response to Petition for Reconsideration and Petition for Review of Initial Order* filed on June 29, 2001, it was stated that Staff fundamentally does not oppose an amendment to the payment schedule. Staff pointed out the credit balance that had existed for approximately six months, and although that credit balance was due solely to Gasco’s ineptness, nevertheless the Authority had use of that money over that time period. Therefore, considering the equities involved, Staff stated that if the Hearing Officer were inclined to amend the payment schedule, Staff proposed the following:

August 1, 2001        \$3,425.00 (to which the credit could be applied)

December 31, 2001    \$3,125.00 (balance)

Notwithstanding any of the above, Staff feels very strongly that all payments relative to this docket should be made no later than December 31, 2001, as there are very specific accounting reasons for not allowing a balance to carry over to the next calendar year. Other than this consideration, Staff’s position is that the specific timing of the payments should be left to the discretion of the Hearing Officer and/or the Authority.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. R. Hotvedt", with a stylized flourish at the end.

Gary R. Hotvedt  
Counsel for TRA Staff

**CERTIFICATE OF SERVICE**


I hereby certify that a true and exact copy of the foregoing has been served on the following person(s), via the method(s) checked, on July 20<sup>th</sup>, 2001:

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Gary Hotvedt